IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 64 of 2006

In

Cross Objection St.No.34883 of 2001

In

Family Court Appeal No.27 of 2001

Sou.Manik S. Patil .. Applicant

V/s

Sharadchandra S. Patil ..Respondent

Sachin Chavan i/b S.S.Kulkarni for Applicant

Ms Meena Gokhale and Shirin Menon for Respondent

CORAM:R.M.S.KHANDEPARKAR &

S.R.SATHE,JJ

DATED;18th April 2006

P.C.:-

. Heard.

2. This is an application for condonation of delay of 115 days in filing the Cross Objection. It is the case of the applicant that she was not duly served

with the notice of the appeal and she came to know about the appeal from enquiry made in the Department of the Family Court. She also learnt that she was sought to be served by way of substitute service.

3. It is her further case that as soon as she came to know about filing of the appeal she filed the Cross objections under the impression that Cross objections were filed within the period of limitation. It is only from the office objection that she learnt that in fact the Cross objections were filed beyond 115 days. In that regard it is her contention that on account of her poor financial condition she was unable to raise necessary funds to have the cross objections filed in accordance with the provisions of law.

4. Undoubtedly there is delay of 115 days in filing the Cross objections.

5. However, the delay is from the date of substitute service of notice. It is the specific case of the applicant in the memo of cross objections itself that she was never served with the notice of the appeal and she had no knowledge of substitute service in relation to the appeal, and as soon as she came to know about the appeal on enquiry made with the office of Family Court, she filed the memo of cross objections. The facts which are on record are not disputed by the

opponent/Appellant, and the same obviously reveal that the applicant has been diligent in perusing her remedy in relation to the cross objections. Once it is not in dispute that as soon as the applicant came to know about the filing of the appeal she had filed the cross objections and incidently the same happened to have been filed beyond the period of 115 days from the date of substitute service of the notice of the appeal and taking into consideration that her claim regarding absence of the knowledge about substitute service is not false, in our considered opinion that sufficient cause has been shown for condonation of delay of 115 days in filing the cross objections.

6. Hence the application is allowed in terms of prayer clause (a). Cross Objections are taken on record.

7. The application stands disposed of accordingly.

(S.R.SATHE,J.) (R.M.S.KHANDEPARKAR,J)